

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CANEY CREEK WATER AND SEWER
DISTRICT

ALLEGED VIOLATIONS OF COMMISSION
STATUTES AND REGULATION

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) CASE NO. 97-287
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O R D E R

On June 30, 1997, the Commission issued an Order alleging that in 1994 Caney Creek Water and Sewer District ("Caney Creek") had charged rates not set forth in its filed tariff in violation of KRS 278.160 and had charged different rates to similarly situated customers in violation of KRS 278.170. These alleged violations were noted in a Commission Staff Report of Audit for the year ended December 31, 1994 ("Report"), attached to the June 30, 1997 Order as Appendix A.

The June 30, 1997 Order states that many of the alleged violations noted in the Report are no longer continuing in nature because Caney Creek has now filed a tariff setting forth its rates and charges and terms of service. The Order further stated that in 1994 Caney Creek had charged the following rates which were not set forth in its tariff:

1. \$30 Customer Deposit
2. \$8 Reconnection Charge
3. \$12.80 flat rate for water and sewer
4. \$12.25 flat rate for sewer only.

Upon receipt of the June 30, 1997 Order, Caney Creek requested an informal conference with the Commission Staff which was held on July 28, 1997. Subsequent to the informal conference, Caney Creek and Commission Staff entered into a Stipulation of Facts and Agreement ("Stipulation") which was filed in the record on December 1, 1997. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth the relevant facts and provides that Caney Creek has filed revised tariffs reflecting: all approved rates; its contract rates which have not been approved but will be subject to investigation in its next rate proceeding; a deposit policy; and a reconnection charge. Caney Creek has also notified its sewer only customers of the currently authorized rate for that service and started charging that rate effective December 1, 1997. In addition, Caney Creek has agreed to a \$200 penalty which will be held in abeyance, to be due and payable only in the event that customers are charged non-tariffed rates during calendar year 1998.

In determining whether the results of the stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the stipulation and Caney Creek's willingness to cooperate to achieve a speedy resolution of this proceeding. Based on the evidence of record, and being otherwise sufficiently advised, the Commission hereby finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is the product of arms-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

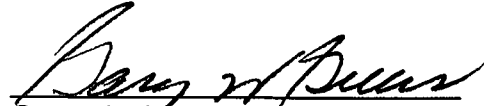
2. Caney Creek is assessed a penalty of \$200 which shall be held in abeyance, to be due and payable only in the event that Caney Creek is found to have violated KRS 278.160 by charging rates not set forth in its tariffs during calendar year 1998.

Done at Frankfort, Kentucky, this 13th day of January, 1998.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 97-287 DATED JANUARY 13, 1998

COMMONWEALTH OF KENTUCKY
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STIPULATION OF FACTS AND AGREEMENT

Caney Creek Water and Sewer District ("Caney Creek") has at least since 1994 charged the following rates which until 1997 were not set forth in a filed tariff:

1. \$30 Deposit Charge
2. \$8 Reconnection Charge
3. \$12.80 flat rate for three contract water and sewer customers
4. \$10.25 flat rate for sewer only customers.

Caney Creek has provided the following additional information regarding the above referenced charges:

The deposit charge had been calculated in accordance with the Commission's deposit regulation and all deposits were either refunded or credited to the customer one year after collection.

The reconnection charge was imposed 11 times in 1996 and 12 times in 1995. Most of the customers subjected to the reconnection charge were transient students at the local college.

In 1986 Caney Creek entered contracts to provide water and sewer service at a flat rate of \$12.80 per month to three individuals who claimed that their wells had been rendered unusable by Caney Creek's withdrawals from a new, nearby well. The contracts were never filed with or approved by the Commission. Copies of two of the contracts were provided by Caney Creek at the July 28, 1997 informal conference in this case and were attached to the August 20, 1997 conference memo. The rate set forth in these contracts is subject to regulation by the Commission and its reasonableness should be investigated in Caney Creek's next rate case under KRS 278.190. In the interim, Caney Creek should continue to serve these three customers at the contract rate.

The \$10.25 flat rate for sewer only customers was established by Commission Order dated October 6, 1986 in Case No. 9611, The Application of Caney Creek Water District for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities. However, upon Caney Creek's request for rehearing, that rate was increased to \$12.65 by Order dated January 23, 1987.

In an effort to achieve a fair and expeditious resolution of the issues set forth in the June 30, 1997 Order, Caney Creek and Staff agree to the following:

1. Caney Creek shall file, no later than December 1, 1997, a revised tariff setting forth a \$12.65 flat rate for sewer only customers and a \$12.80 flat rate for three water and sewer customers served under special contracts. The names of these contract customers should also be included in the tariff with a notation that the rate will be subject to investigation in Caney Creek's next rate case under KRS 278.190;

2. Caney Creek shall by December 1, 1997 send a written notice to each of its sewer only customers explaining that the rate was increased from \$10.25 to \$12.65 by Commission Order dated January 23, 1987, that due to an oversight the higher rate has not been used for billing purposes, and that the \$12.65 rate will be billed starting December 1, 1997. Caney Creek shall also file with the Commission by December 10, 1997 a copy of this notice and the name and address of each customer so notified.

3. A \$200 penalty should be assessed by the Commission against Caney Creek for not having on file between 1994 and 1997 a tariff setting forth all its rates and conditions of service. The \$200 penalty will be held in abeyance, to be due and payable only in the event that Caney Creek is found to have again violated KRS 278.160 by charging rates not set forth in its tariffs during calendar year 1998.

Agreed to this 24 day of November, 1997.

Caney Creek Water and Sewer District

By: *George Danny Kimball*
~~Gary Perry~~ George Danny Kimball
Its Chairman

Staff of Public Service Commission

By: *Richard G. Raff*
Richard G. Raff
Its Counsel